

1 EDMUND G. BROWN JR., Attorney General
2 of the State of California
3 JOSE R. GUERRERO, State Bar No.97274
4 Supervising Deputy Attorney General
5 CATHERINE E. SANTILLAN
6 Senior Legal Analyst
7 California Department of Justice
8 455 Golden Gate Avenue, Suite 11000
9 San Francisco, CA 94102-7004
10 Telephone: (415) 703-5579
11 Facsimile: (415) 703-5480

12 Attorneys for Complainant

13
14 **BEFORE THE**
15 **RESPIRATORY CARE BOARD**
16 **DEPARTMENT OF CONSUMER AFFAIRS**
17 **STATE OF CALIFORNIA**

18 In the Matter of the Accusation & Petition to
19 Revoke Probation Against:

20 TELLY SAVALAS HUGHES
21 P.O. Box 214
22 San Ramon, CA 94583

23 Respiratory Care Practitioner License No. 20040

24 Respondent.

Case No. R-2087

**DEFAULT DECISION
AND ORDER**

[Gov. Code §11520]

25 FINDINGS OF FACT

26 1. On or about June 26, 2007, Complainant Stephanie Nunez, in her official
27 capacity as the Executive Officer of the Respiratory Care Board of California, Department of
28 Consumer Affairs, filed Accusation and Petition to Revoke Probation No. R-2087 against Telly
Savalas Hughes (Respondent) before the Respiratory Care Board.

2. On or about April 27, 1998, the Respiratory Care Board (Board) issued
Respiratory Care Practitioner License No. 20040 to Respondent. The Respiratory Care
Practitioner License was in full force and effect at all times relevant to the charges brought herein
and will expire on February 29, 2008, unless renewed.

3. On or about June 26, 2007, Jennifer Porcalla, an employee of the

1 Complainant Agency, served by Certified and First Class Mail a copy of the Accusation and
2 Petition to Revoke Probation No. R-2087, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's
4 address of record with the Board, which was and is P.O. Box 214, San Ramon, CA 94583. A
5 copy of the Accusation and Petition to Revoke Probation, the related documents, and Declaration
6 of Service are attached as **Exhibit A**, and are incorporated herein by reference.

7 4. California Code of Regulations, Title 16, section 1399.304 states, in
8 pertinent part:

9 "(c) Each person holding a license as a respiratory care practitioner ... shall file,
10 in writing, with the board his or her proper and current mailing address, and shall give written
11 notice within 14 days, to the board at its Sacramento office of any and all changes of address,
12 giving both the old and new address."

13 5. Service of the Accusation and Petition to Revoke Probation was effective
14 as a matter of law under the provisions of Government Code section 11505, subdivision (c).

15 6. On or about June 28, 2007, the U.S. Postal Service attempted to deliver
16 the certified mail to respondent's address of record, and a notice was left. On July 12, 2007, the
17 certified mail was returned to the Board marked "unclaimed" and is attached as **Exhibit B**, and is
18 incorporated herein by reference.

19 7. Government Code section 11506 states, in pertinent part:

20 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
21 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
22 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
23 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

24 8. Respondent failed to file a Notice of Defense within 15 days after service
25 upon him of the Accusation and Petition to Revoke Probation, and therefore waived his right to a
26 hearing on the merits of Accusation and Petition to Revoke Probation No. R-2087.

27 9. California Government Code section 11520 states, in pertinent part:
28

"(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent."

10. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in Exhibits A through E, finds that the allegations in Accusation and Petition to Revoke Probation No. R-2087 are true.

11. The Respiratory Care Board further finds that pursuant to Business and Professions Code section 3753.5, the costs of investigation and enforcement of the case prayed for in the Accusation and Petition to Revoke Probation total \$1,186.00, based on the Certification of Costs contained in Exhibit E.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Telly Savalas Hughes has subjected his Respiratory Care Practitioner License No. 20040 to discipline.

2. A copy of the Accusation and Petition to Revoke Probation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Respiratory Care Board is authorized to revoke Respondent's probation granted in case no. R-2042, and impose the order of revocation that was stayed, based upon the following violations alleged in Accusation and Petition to Revoke Probation no. R-2087:

A. Respondent's license is subject to revocation under code sections 3750(d), 3752, 3750.5(a), 3750.5(b), 3750.5(d) and 3750.5(e), CCR 1399.370(a) in that he was convicted on his plea of nolo contendere to a violation of Health & Safety code section 11377(a), possession of a controlled substance, methamphetamine;

B. Respondent has failed to comply with the following probation conditions:
biological fluid testing, obey all laws, file quarterly reports, comply with the probation
monitoring program, pay monthly probation costs, and pay cost recovery, as set forth in the
Declaration of Jocelyn Campos.

5. Respondent is hereby ordered to pay the above costs of investigation and enforcement of this action.

ORDER

IT IS SO ORDERED that Respiratory Care Practitioner License No. 20040, heretofore issued to Respondent Telly Savalas Hughes, is revoked.

Respondent is ordered to reimburse the Respiratory Care Board the amount of \$1,186.00 for its investigative and enforcement costs. The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to reimburse the Board for its costs. Respondent's Respiratory Care Practitioner License may not be renewed or reinstated unless all costs ordered under Business and Professions Code section 3753.5 have been paid.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on September 28, 2007.

It is so ORDERED August 29, 2007

Original signed by:
LARRY L. RENNER, BS, RRT, RCP, RPFT
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

1 Attachments:

2 Exhibit A: Accusation and Petition to Revoke Probation No. R-2087, Related Documents,
and Declaration of Service
3 Exhibit B: Copy of certified mail envelope returned by U.S. Postal Service
4 Exhibit C: Certified copy of criminal complaint, docket sheet
5 Exhibit D: Declaration of Board Probation Monitor Jocelyn Campos
6 Exhibit E. Certification of Costs: Declaration of Catherine Santillan
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28